

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BEHZADI & BRENIAN CARPET,

Plaintiff,

- against -

DAVID & SON ORIENTAL ANTIQUE RUGS
CORPORATION and DAVID SHADAN,

Defendants.
-----x

07 Civ. 7073 (BSJ) (DFE)

This is an ECF case

MEMORANDUM AND ORDER

DOUGLAS F. EATON, United States Magistrate Judge.

On January 14, 2008, my Courtroom Deputy spoke with the attorneys and scheduled the Initial Case Management Conference for February 11, 2008.

On January 28, 2008, the individual defendant made a motion to Judge Jones for summary judgment dismissing the only claim for relief against him (the claim for alter ego liability). On February 7, 2008, plaintiff filed opposing papers arguing that the motion was premature because plaintiff had not yet had an opportunity to take discovery. The motion is returnable before Judge Jones on February 20, 2008.

On February 11, 2008, I held the Initial Case Management Conference with Mr. Fritz and Mr. Corbett. Mr. Fritz agreed that plaintiff, by February 13, 2008, will provide the initial disclosures required by Rule 26(a)(1), F.R.Civ.P. Mr. Corbett agreed that defendants, by February 22, 2008, will provide the initial disclosures required by Rule 26(a)(1), and will do so with respect to all of the claims for relief. On the other hand, the defendants decline to provide any other discovery with respect to the alter ego claim until Judge Jones rules on the pending motion. Accordingly, I set the following Scheduling Order:

1. Prior to Judge Jones's ruling on the pending motion, the parties shall commence discovery related to any of the claims other than the alter ego claim.

2. Three months after Judge Jones's ruling on the pending motion, all fact discovery must be completed, and plaintiff must serve any expert witness's report in compliance with Rule

26(a)(2)(B). Defendants may depose plaintiff's individual principal only once; they may require him to travel to New York at plaintiff's expense. Since he does not speak English, the parties shall share equally in the cost of an interpreter at the deposition; at the conclusion of this lawsuit, the prevailing party shall be entitled to reimbursement for its half of this cost.

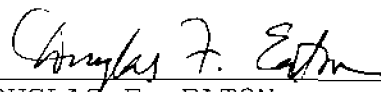
3. Four months after Judge Jones's ruling on the pending motion, defendants must serve any expert witness's report in compliance with Rule 26(a)(2)(B).

4. Five months after Judge Jones's ruling on the pending motion, all expert discovery must be completed, and any dispositive motion must be filed and addressed to Judge Jones.

5. If (and **only if**) no dispositive motion is pending, then plaintiff must serve its sections of the joint pretrial order two weeks after the deadline for dispositive motions, and defendants must serve their sections of the joint pretrial order three weeks after the deadline for dispositive motions, and four weeks after said deadline the parties must file the joint pretrial order in a format that complies with the trial Judge's individual rules.

6. None of these deadlines will be extended except upon a showing of good cause. Any request for an extension must be made by fax, **at least one week before** the deadline in question, and must state the adversary's position concerning the proposed alternative date.

7. Pursuant to Rule 16(f), I may impose sanctions, including attorney's fees, if a party or a party's attorney fails to obey this scheduling order.



DOUGLAS F. EATON
United States Magistrate Judge
500 Pearl Street, Room 1360
New York, New York 10007
Telephone: (212) 805-6175
Fax: (212) 805-6181

Dated: New York, New York
February 11, 2008

Copies of this Memorandum and Order are being sent by fax and by electronic filing to:

Kevin A. Fritz, Esq.

Storch Amini & Munves PC at fax 212-490-4208fax

James J. Corbett, Esq. at fax 516-679-7406fax

Hon. Barbara S. Jones